

to the military potential of countries in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) that would prove detrimental to the national security of the United States. License Exception GBS is available for the export and reexport of certain national security controlled items to Country Group B (see § 740.4 and Supplement No. 1 to part 740 of the EAR).

(b) *Licensing policy.* (1) The policy for national security controlled items exported or reexported to any country except a country in Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications unless there is a significant risk that the items will be diverted to a country in Country Group D:1.

(2) Except for those countries described in paragraphs (b)(5) through (b)(7) of this section, the general policy for exports and reexports of items to Country Group D:1 (see Supplement No. 1 to part 740 of the EAR) is to approve applications when BIS determines, on a case-by-case basis, that the items are for civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

(3) To permit such policy judgments to be made, each application is reviewed in the light of prevailing policies with full consideration of all aspects of the proposed transaction. The review generally includes:

- (i) An analysis of the kinds and quantities of items to be shipped;
- (ii) Their military or civilian uses;
- (iii) The unrestricted availability abroad of the same or comparable items;
- (iv) The country of destination;
- (v) The ultimate end-users in the country of destination; and
- (vi) The intended end-use.

(4) Although each proposed transaction is considered individually, items described in Advisory Notes on the Commerce Control List are more likely to be approved than others.

(5) In recognition of efforts made to adopt safeguard measures for exports and reexports, Bulgaria, Latvia, Kazakhstan, Lithuania, Mongolia, and

Russia are accorded enhanced favorable consideration licensing treatment.

(6) The general policy for Cambodia and Laos is to approve license applications when BIS determines, on a case-by-case basis, that the items are for an authorized use in Cambodia or Laos and are not likely to be diverted to another country or use contrary to the national security or foreign policy controls of the United States.

(7) For the People's Republic of China, the general licensing policy is to approve applications, except that those items that would make a direct and significant contribution to electronic and anti-submarine warfare, intelligence gathering, power projection, and air superiority receive extended review or denial. Each application will be considered individually. Items may be approved even though they may contribute to Chinese military development or the end-user or end-use is military. Note that the Advisory Notes in the CCL headed "Note for the People's Republic of China" provide guidance on equipment likely to be approved more rapidly for China.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) [Reserved]

[61 FR 12786, Mar. 25, 1996, as amended at 61 FR 64283, Dec. 4, 1996]

§ 742.5 Missile technology.

(a) *License requirements.* (1) In support of U.S. foreign policy to limit the proliferation of missiles, a license is required to export and reexport items related to the design, development, production, or use of missiles. These items are identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the "License Requirements" section. Licenses for these items are required to all destinations, except Canada, as indicated by MT Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR).

(2) The term "missiles" is defined as rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise

missile systems, target drones, and reconnaissance drones) capable of delivering at least 500 kilograms (kg) payload to a range of at least 300 kilometers (km). See § 746.3 of the EAR for definition of a “ballistic missile” to be exported or reexported to Iraq.

(b) *Licensing policy.* (1) Applications to export and reexport items identified in ECCNs on the CCL as MT Column No. 1 in the Country Chart column of the “License Requirements” section will be considered on a case-by-case basis to determine whether the export or reexport would make a material contribution to the proliferation of missiles. Applications for exports and reexports of such items contained in Category 7A or described by ECCN 9A101 on the CCL will be considered more favorably if such exports or reexports are determined to be destined to a manned aircraft, satellite, land vehicle, or marine vessel, in quantities appropriate for replacement parts for such applications. When an export or reexport is deemed to make a material contribution to the proliferation of missiles, the license will be denied.

(2) The following factors are among those that will be considered in reviewing individual applications.

- (i) The specific nature of the end-use;
- (ii) The significance of the export and reexport in terms of its contribution to the design, development, production, or use of missiles;
- (iii) The capabilities and objectives of the missile and space programs of the recipient country;
- (iv) The nonproliferation credentials of the importing country;
- (v) The types of assurances or guarantees against design, development, production, or use of missiles that are given in a particular case; and
- (vi) The existence of a preexisting contract.

(3) *Controls on other items.* BIS will review license applications, in accordance with the licensing policy described in paragraph (b)(1) of this section, for items not described in paragraph (a) of this section that:

- (i) Require a validated license for reasons other than short supply; and
- (ii) Could be destined for the design, development, production, or use of mis-

siles, or for a facility engaged in such activities.

(c) *Contract sanctity.* The following contract sanctity dates have been established:

(1) License applications for batch mixers specified in ECCN 1B117 involving contracts that were entered into prior to January 19, 1990, will be considered on a case-by-case basis.

(2) License applications subject to ECCN 1B115.b or .c that involve a contract entered into prior to March 7, 1991, will be considered on a case-by-case basis.

(3) Applicants who wish that a pre-existing contract be considered in reviewing their license applications must submit documentation sufficient to establish the existence of a contract.

(d) *Missile Technology Control Regime.* Missile Technology Control Regime (MTCR) members are listed in Country Group A:2 (see Supplement No. 1 to part 740 of the EAR). Controls on items identified in paragraph (a) of this section are consistent with the list agreed to in the MTCR and included in the MTCR Annex.

[61 FR 12786, Mar. 25, 1996, as amended at 68 FR 16147, Apr. 2, 2003; 69 FR 46075, July 30, 2004]

§ 742.6 Regional stability.

(a) *License requirements.* The following controls are maintained in support of U.S. foreign policy to maintain regional stability:

(1) As indicated in the CCL and in RS Column 1 of the Country Chart (see Supplement No. 1 to part 738 of the EAR), a license is required to all destinations, except Canada, for items described on the CCL under ECCNs 6A002.a.1, a.2, a.3, .c, or .e; 6A003.b.3 and b.4; 6A008.j.1; 6A998.b; 6D001 (only “software” for the “development” or “production” of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D002 (only “software” for the “use” of items in 6A002.a.1, a.2, a.3, .c; 6A003.b.3 and .b.4; or 6A008.j.1); 6D991 (only “software” for the “development,” “production,” or “use” of equipment controlled by 6A002.e or 6A998.b); 6E001 (only “technology” for “development” of items in 6A002.a.1, a.2, a.3, and .c or .e, 6A003.b.3 and b.4, or 6A008.j.1); 6E002 (only “technology” for “production” of